

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JAMES FOUNTAIN §
v. § CIVIL ACTION NO. 6:18cv375
UNITED STATES OF AMERICA §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed for failure to prosecute or to obey an order of the Court, in that the Plaintiff did not pay the initial partial filing fee of \$41.14. The Plaintiff has filed objections stating that he cannot afford to do so. However, the financial statement which he provided showed that over the preceding six months, he had received an average of over \$200.00 per month. Plaintiff has not provided any other financial information demonstrating an inability to pay the initial partial filing fee. His objections are without merit.

In addition, a review of the pleadings shows that the Plaintiff's lawsuit is patently frivolous and fails to state a claim upon which relief may be granted. He has filed suit clearly specifying Rule 201 of the Federal Rules of Evidence as his cause of action, but the Federal Rules of Evidence do not provide a private cause of action. *In re Madison Guar. Sav. & Loan Ass'n*, 173 F.3d 866, 869 (D.C. Cir. 1999); *Eaves v. Walker*, civil action no. CV 17-886, 2017 WL 5514310 (W.D. Pa. Nov. 6, 2017), *Report adopted at* 2017 WL 5499964 (W.D. Pa. Nov. 16, 2017). Plaintiff's lawsuit may be dismissed on this basis as well.

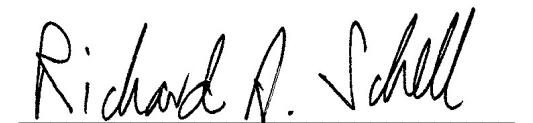
The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of the case, has been presented for consideration. The court

has conducted a *de novo* review of the objections raised by Plaintiff to the Report. The court concludes that the findings and conclusions of the Magistrate Judge are correct and adopts the same as the findings and conclusions of the court. It is accordingly

ORDERED that the above-styled civil action is **DISMISSED** without prejudice for failure to prosecute or to obey an order of the Court and as frivolous and for failure to state a claim upon which relief can be granted. It is further

ORDERED that any and all motions by either party not previously ruled upon are hereby **DENIED**.

SIGNED this the 29th day of September, 2019.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE